G. R. S. IX-5]

Previous references.

File No. 16-12

1912.

Serial Nos. 1-8

(Legis)

Later references.

(P-42)

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1-8

Part B for Oct 18

SUBJECT.

Amendment of Section 91 of the Indian Eviden Act as in force in Mysore.

Sl. 8) To

The Compiler, Mysore Gazette

G. 7731 dy 28-10-18

Orders that the Regulation further to amend the Indian Evidence Act 1872 published as Regulation No. X of 1918

W D 1250—GPB—30,000 -28-7-19

9.8.19

G.R.S. 11] 1912

GENERAL AND REVENUE SECRETARIAT.

(Legislation

NOTES.

File No. 16-12

FILE HEADING.

Amendment of Sec 91 of the Indian Evidence Act as in force in Mysore.

From

The Registrar Chief Court

No. 915/65 Dated 5th Sept 1912 Received 7th Sept 1912

Diary No. 684	Enclos. —	Spare Copies. —	Serial No. 1

BRIEF ABSTRACT OF LETTER.

States that exception 2 of Sec 91 of the act as it now stands precludes wills admitted to probate in Mysore at in the C.M. Station Bangalore being proved by the probate and proposes to so amend the exception as to allow wills admitted to probate in those places being proved by the probate

NOTES AND ORDERS.

I The exception (No. 2) to Sec 91 of the Evidence Act as introduced originally by the ~~Law Commission~~ Govt of India notification no 143 J. dt 18th July ~~Oct~~ 1872 was as

Q { Wills under the Indian Succession Act may be proved by the Probate" ...

NOTES—First Sheet.

GPB—30,000—12-8-11

Serial No.

exception was amended in
in British India by Act XVIII of 1872 by
which the words 'admitted to probate in
British India" were substituted for the
words " under the Indian Succession Act".
Act XVIII of 1872 was introduced into Mysore
by Govt of India Notification no 240 J
dy 4th Nov 1872 so that the exception
runs ~~in Mysore~~ as under now :—

" Wills admitted to probate in British
India may be proved by the probate"

3 The Chief Court point out that
as no alteration was made with respect
to the words "British India" in the amending Act, wills admitted to
probate in the C. & M Station & Wills in
Mysore under the Indian Succession Act
cannot be proved by the probate
and so it is proposed that the exception
be so amended as to allow such
wills being proved by the probate
Submitted for orders.

AB 6a
29/9/17

I draft for Bill is put
up in accordance with the
recommendation of the Chief Court
but it is a point for Consideration

I (footnote)

NOTE—Contn. sheet.

GPE—65,000—17-C-12.

G. R. S. 191

General and Revenue Secretariat.

Legs. File No. 46 of 191 2

Serial No.

whether by ~~of~~ virtue of the change in the administration of the State consequent on the Rendition the Courts will not interpret all the ~~existing~~ then Acts and Regulations that were in force at that in consonance with the altered State of things. The proclamation of His Highness the late Maharaja dated on the day on which he assumed Charge of the Administration (25th March 1881) contains inter alia the following announcement "We do hereby further declare that all laws and rules having the force of law now in force in the said territories shall continue to be in force in the said territories." This declaration seems to cast on the Courts having to interpret the laws referred to above the duty of interpreting them rationally that is in substance in accordance with the spirit of the change introduced. In this view the Courts would not perhaps be wrong if they held the provisions of Sec 91 Exception (2) to apply to wills made in

Even then British India did not include Mysore

But does not 'probate' granted in Mysore become proper proof of the will without any provision in the Evidence Act

Is it necessary to mention Coorg separately from "Mysore"?

NOTE—Contn. sheet.

27/12/12

GIE—65,000—17-C-12.

General and Revenue Secretariat. | Legis File No. 16 of 1912

Serial No.

It is no doubt true that Some time after the Rendition the Govt issued a notifications dated 28th April + 2nd Sep 1881 that in all Acts & rules having the force of law, introduced into the State prior to the Rendition the Expressions "Governor-General in Council", Local Govt" etc Shd be read as meaning the Govt of H.H. the Maharaja of Mysore and Soon [In this notification there was no direction that "British India Should be read as Mysore"]. But it is open to very great doubt whether a notification of the Executive Govt can have the legal Effect of altering the terms of a Statute In my humble opinion it can not and the result is that in all Enactments introduced prior to the Rendition the Expressions Govt of India Govr-Gen in Council, Local Govt", yet remain as the Courts have been interpreting them - and rightly - to mean the Govt of Mysore a Similar interpretation is to be made to the words not made

NOTE—Contn. sheet.

GIE- 65,000-17-C-12.

G. R. S. 12]

General and Revenue Secretariat. | Legis File No. 6 of 1912

Serial No.

discussion there will be no necessity to amend the Act

6 There are also certain disadvantages in making amendments of this kind piecemeal as there are numerous enactments where similar changes may be necessary.

15/4/12

Lee)

7 I may also refer to Sec 30 of 31 (Especially clause (10) of the latter Section) of the General Clauses Regulation 1899 which if it does not actually govern the case now in question lends support to the principle of interpretation indicated above.

15/4/12

Lee) 9) I have altered the draft. Please bring up personally 23

1st Corrections

9/4/12

E.g. Navsari Indian Penal Code

8) If it is decided that legislation as recommended is to be undertaken, then the draft sent up by the Ct. seems to require revision. As we are about to pass a Probate & Administration Act (for Hindus &c) in this State, the language may remain quite general as in the Br. Indian Act. We may therefore omit the Expression "under the Indian Succession Act 1865"

NOTE—Contn. sheet.

16/4/12

GIE—65,000—17-6-12.

F 684-12

G.R.S. III—3] Legis file no. 16 of 1912-13

Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

Legis. File No. 16 of 1912-13.

****

10) I believe this file was given to me by the late First Member of Council (Mr. H. V. Nanjundayya) for putting up some references, but as I was transferred immediately thereafter to the Dewan's staff it got mixed up with other papers and was entirely lost sight of. It was only recently discovered. I am extremely sorry for the delay caused by this accident.

The papers are forwarded to Branch III for favour of further action.

Legis 15/11

15/11/16 15/12

Please put up a revised draft as instructed

8/12

12) Subd. with a revised draft as ordered.

N.B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

W.D. 84—GPB—60,000—20-7-16 5/4/17

G. R. S. 12]

General and Revenue Secretariat.

Legl. File No. 16 of 1912

Serial No.

13) The amendment proposed by the Chief Court is one that is desirable to adopt. Draft already filed has been amended by the omission of the words "under the Indian Succession Act," as probate cannot be granted under the Probate and Administration Regulation also. The words are wide enough to cover all probate granted by the Chief Court.

Submitted for favour of approval

Dist. Munsif

331/5.1.17

14) Approved

5/1

the whole Case.

15) For favour of orders of the Dewan.

16)

3912/1.1.17

Secy) May be disposed of by Circular

Dewan) 17) agreed

16.1.17.

(For disposal by circulation)

No. C. 58 & 17

20. 1. 1917

Legis file no. 16 of 1912-13

(8

GENERAL AND REVENUE SECRETARIAT.

Council Matter.

SUBJECT.

Proposals for the amendment of exception 2 to section 91 of the Indian Evidence Act No.I of 1872, in force in the State.

CIRCULATED TO THE MEMBERS OF COUNCIL.

By Order,

D. M. Narasinghan

19th January 191 7.

Secretary to Government.

Extraordinary Member of Council.

18)

First Member of Council. Approved.

Second Member of Council. 19) 22.1 20.1.17 20.1.17

WD 2012—GPB—1 000—9-2-16

6Sa-12

C R. S. 12]

General and Revenue Secretariat.

Legn. File No. 16 of 1912

9

Serial No.

20) Subd with a d.f.n. and a d.s.n

24/1/17 [illegible]

First Member) 24/1/17

24) copies

[illegible]

25/1

28) Fair note signed by the 1st member is put up.

1554/25.1.17

25/1/17

29) D S N is also put up.

4297/25.1.17.

Dewan) Dewan 25/1

25/1/17

NOTE—Contn. sheet.

GPB—65,000—17-6-12.

Legs' file no 69 1912-13

Final Note by the First Member of Council.

Subject:—

Amendment of exception 2 to section 91 of the Indian Evidence Act, No.I of 1872, as in force in Mysore.

24) ———

Under Section 91 exception 2 of the Indian Evidence Act, I of 1872 as amended by Act XVIII of 1872 and introduced into Mysore by Government of India Notification, Foreign Department, Judicial, No.143 dated 18th July 1872 and the Chief Commissioner's Notification No.207 dated 28th November 1872 respectively, Wills can be proved in Mysore Courts by the production of a probate granted in British India.

25) The language of this exception is not wide enough to allow probates granted by the Courts of the C and M Station and of the State to be received in proof of wills.

26) This omission which is due to an oversight was brought to the notice of Government by the Chief Court in their letter No.915/65 dated 5th September 1912.

Paper under disposal

27) A Bill for suitably amending the Act has therefore been drawn up and has been approved by the Members of Council.

Draft for approval.

28) The gracious sanction of His Highness is solicited to place the Bill before the Legislative Council.

M. Martin

25th April 1917

Legis file no. 167/1912-13

(11) (12)

Submitted to His Highness.

29)

I submit herewith a Final Note by the First *Member of Council on the subject of* Amendment of exception 2. to section 91 of the Indian Evidence Act, No.I of 1872. *for His Highness' gracious approval.*

M. Visvesvaraya

Dewan.

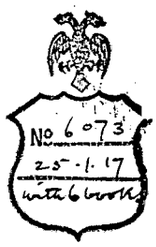
25th Jan 1917.

Legis file no 16/1912-13

(12

Record of Cases submitted for ~~the~~ Orders of His Highness the Maharaja

Subject.



Amendment of exception 2 to Section 91 of the Indian Evidence Act, No. 1 of 1872.

768

30) ***Order.***

~~KRW~~

29/1/17

Pub. Dept
30/1

31) Draft to Regd
31/1

684-12

ND 1233—GPB—60,000—1-12-16—S.

G. R. S. III-2]

General and Revenue Secretariat.

Legs File No. 16 of 1912.

13

Serial No.	
	32) Sub. with a draft to the Residency and a copy of the Bill and Statement of Objects and reasons CC 2/2/17 Dy. 1481. 33) Surfaraz of Dewans Kind approval. SS 3/2/17
4481 5.2.17.	Secy) Dewan) Dewan of Cochin 4/2 SS 5/2/17
Sub A 21/2	34) The draft approved by the Dewan has been issued and placed on file (vide D.O. No. 4726 dated 18.2.17) sent 19/2 CGR 19.2.17 SS 19/2 To The Honble H. V. Cobb Esqr I.C.S. D.O. No. 4726 18th Feb. 17 Forwards a copy of a Bill further to amend the Indian Evidence Act 1872 No. 1932 dated 13th March 17 From the J.A. Resigal- Informs that the Resident has no prima facie Objection to the Bill

NOTE—Contn. sheet.

E 25/7/17 Legis file and:-16 & 19 12-13

NOTIFICATION.

No. 416—*L. C., dated* 21*st March* 1917.

Under Rule 31 of the Rules for the conduct of business of the Mysore Legislative Council, the following Bill further to amend the Indian Evidence Act, 1872, is published for general information together with a statement of objects and reasons.

By Order,
G. SREENIVASA IYER,
Secretary, Mysore Legislative Council.

A Bill further to amend the Indian Evidence Act, 1872.

Whereas it is expedient further to amend the Indian Evidence Act, 1872, as in force in Mysore; His Highness the Maharaja is pleased to enact as follows:—

Amendment of Exception 2 to Section 91.

In exception 2 to Section 91 after the words "British India" the words "or in the Civil and Military Station, Bangalore, or within Mysore" shall be inserted.

Statement of objects and reasons.

Under Section 91, exception 2 of the Indian Evidence Act, I of 1872, as amended by Act XVIII of 1872 and introduced into Mysore by Government of India Notification, Foreign Department, Judicial No. 143, dated 18th July 1872 and the Chief Commissioner's Notification No. 207, dated 28th November 1872, respectively, wills can be proved in Mysore Courts by the production of a probate granted in British India.

The language of this exception is not wide enough to allow probates granted by the Courts of the Civil and Military Station, Bangalore, and of the State to be received in proof of wills. This omission which is due to oversight has been brought to the notice of Government by the Chief Court and it is meant to supply it by the amendment proposed in this Bill.

36)
Civil Station authorities may be
consulted. another section
may be considered.

5 84-1~
2016-16

MD 1233—GPB—60,CCC—1-12-16—S.

G. R. S. III-2]

(15~

General and Revenue Secretariat | Legis File No. 16 of 1912

Serial No.

37) Sub. The Select Committee appointed to consider the Bill met on the 25th July 1917 and decided that the ~~C & M. Stat~~ Residency should be first consulted to see if he is prepared to give reciprocity & in the C&M Stations in the case of Probate &c. granted by the Mysore ~~State~~ courts.

38) A draft to the Residency is accordingly put up.

39) Putup. draft as revised.

40) Subm. with a fair draft as revised.

41) Approval solicited

42) Approved accordingly

4 To, The H. A. Resident
PDL 130 Dy 6.8.1917
Form 2 Copy of the Bill further to amend the Indian Evidence Act 1872 as in force in Mysore and Coorg

NOTE—Contn. sheet.

052

ND 1253—GPB—60,CCC—1-12-16—S.

16

G. R. S. III-2]

General and Revenue Secretariat. | Legis File No. 16 of 1912.

Serial No.

to ascertain if the Hon'ble the Resident agrees to introduce a similar provision in the evidence Act as in force in the Cantt. Station, Bangalore for permitting wills admitted to probate by the Durbar Courts being proved by such probates in the Courts in the Cantt. Station

From The F. A. Resident
Ord 319 Dt 31.8.17
States that the Resident is of opinion that a provision may well be introduced in the evidence Act as in force in the Cantt. Station of Bangalore so as to permit of the wills admitted to probate in Mysore Courts being proved by such probates in Station Courts.

44 Subi According to the letter now received from the Residency the Select-committee have to consider the Bill on its merits and the Legs Council adopt it, and then on asking for the Govt of India Sanction a request to amend the Law as applied to the C & M Station suitably has to be made

31/12/1916

NOTE—Contn. sheet.

ND 1233—GPB—60,000—1-12-16—S.

512

G. R. S. III-2]

General and Revenue Secretariat. | Legs File No. 16 of 1912-13.

Serial No.

45) The Residency agents favour opn amendment, but they say that circ must the Govt of India ~~after the Bill~~ for sanction when the sanction for passing our Bill is asked for. ~~We Secretary have~~ Then seems to be no necessity for a meeting of the Select Committee for considering this point. If approved, a draft report with a confidential note explaining the circumstances will be circulated to the members for approval, and after their approvals received, our Bill will be published. Submit proceedings

GS
30/5

First Member

) Shall be done

1/9 well by

GS 2/9

47) Submit with a draft

5/9/17 Rdl

48) Please put up a fair draft as revised.

GS 5/9

49) Submit with a draft as revised.

5/9/17 Rdl

50) In favour of approval

GS 6/9

First Member draft approved by the Committee

5/9/17

8/9/17 52) done GS

NOTE—Contn. 1 sheet.

/D 1283—GPB—60,000—1-12-16—S

Gr. R. S. III-2]

General and Revenue Secretariat. | File No. | of 191

Serial No.

54) Subs. Mr B.K. Gaundachar has not yet sent his approval to the report of the S.C. A draft reminder is put up.

19/10/17

54) Issued 19/10

53) Subs. No reply has yet been received from Mr B.K. Gaundachar A reminder is again put up.

19/11/17

56) Issued 19/11

57) Subs. Mr B.K. Gaundachar has sent back the draft report approved by him So all the members of the Select Committee have approved. A draft note publishing the report is put up.

20/11/17

58) Issued 21

NOTE—Contn. sheet.

51-57

G. R. S. III-2)

General and Revenue Secretariat. | Legis File No. 16 of 1912

Serial No.

Sub W.

59) The Report of the Select Committee was together with the Bill was considered in the Legis Council on 28/6/18 and was resolved to be taken up and passed at a subsequent meeting of the Legis. Council Govt of India sanction is required for passing the Bill into law. A draft to the Reasons is put. The question about reciprocity is also entered in the draft.

11/7/18

In favour of appeal

Chief Secretary

1st member

13/7/18

90/13.7

13/7

To the J. A. Resident

No. Pol 54 16th July 1918

Requests sanction of the Govt of India for passing the Bill further to amend the Indian Evidence Act, 1872

Sub A

NOTE—Contn. sheet.

0014-512
3869

G. R. S. III-2]

General and Revenue Secretariat.

File No. 16 of 191[illegible].

Serial No. 7

From The F. A. Resident
No. 1896 of 6-9-18
States that the Governor General in Council is pleased to accord his Consent to the draft bill, on the understanding that he retains over it the power of and authority which he in him by virtue of Article 18 of the Treaty dated 26th Nov 1913.

Subn. for information
The Bill has been included in the agenda for the ensuing meeting of the Legis. Cl. for being passed
A
7/9/18

99

7/9/18

L. C
1/9

Subn.
The Bill was finally passed by the Legislative Council on the 17th Sept: 1918
His Highness the Maharaja's Sanction is required to promulgate the Bill as law. A copy of the Bill as finally passed is also submitted with a d.f. in and d.s.n
27/9/18

A.D.7. N is put up
First Member
30/9/18

1/10

NOTE—Contn. sheet.

1084
1/10.

WD A 1789—GPB—60,000—20-8-18—S.

3569

G. R. S. III-2]

General and Revenue Secretariat. | Legs. File No. 16 of 1912. (21)

Serial No.

1184/1/10

Fair final note signed by the Members in Interest.

1/10/18 D. S. to submitted

Dewan

3/10/18

2021/3.10.18

Sd/-

draft notification to Interest

12-10-18

Dy Secretary

25/10

12/10/18

& To, The Compiler, Mysore Gazette

G 7731 Dt 28-10-18

Orders that the Regulation further to amend the Indian Evidence Act 1872 be published as Regulation No X of 1918

B 15/11

NOTE—Contn. sheet.

WD A 1789—GPB—60,000—20-8-15—S.

(23

Submitted to His Highness.

I submit herewith a Final Note by the First *Member of Council on the subject of* the promulgation into law of the Bill further to amend the Indian Evidence Act, 1872,

for His Highness' gracious approval.

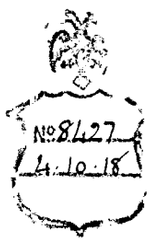
A. Rangacharya

Dewan.

4th Oct. 1918.

3869

Record of Cases submitted for the Orders of His Highness the Maharaja



Subject.

Promulgation into law of the Bill further to amend the Indian Evidence Act 1872.

392

Order.

~~KRW~~
8/10/18

Chief Secretary
9.10.18 RO

7/10/18
Draft
Gs
17/10

No: 915 / 6-

DIARY No. 1584

(25

Chief Court of Mysore,
1572-1573
Bangalore, dated 5th September 1912
SECTION Legis
FILE No. 16-12-5
SERIAL No. 1

From

V.A. Rajaratna Mudaliar Esq.,
Registrar, Chief Court of Mysore.

To

The Secretary to Government,
General & Revenue Departments

S i r ,

It has come to the notice of the Chief Court that the wording of Section 91 exception (2) of the Indian Evidence Act No.I of 1872 in force in Mysore State requires some amendment.

2. That exception runs at present " Wills admitted to - probate in British India may be proved by the probate". The words underlined are substituted for the words " under the Indian Succession Act " by the Indian Evidence Act Amendment Act XVIII of 1872 Section 7. The latter Act was introduced en bloc into Mysore State by Notification of the Chief Commissioner of Mysore No.207 dated 28-~~11-72~~ 11th November 1872, and the usual substitution in similar cases of the words 'Mysore State' for 'British India' does not seem to have been made then or subsequently.

3. In consequence, the exception as in force in Mysore State. permits proof in Mysore courts by probate of only wills admitted to probate in British India, and is silent about wills

admitted

admitted to probate in Mysore courts. This result ~~is~~ was no doubt due to oversight.

The Chief Court think that there will be no objection but rather an advantage in retaining the power of proving in Mysore courts by probate wills admitted to probate in British India, and recommend that the power be extended by legislation to cover also wills admitted to probate in Mysore State (i.e. under the Indian Succession Act X of 1865) and in the Civil & Military Station, Bangalore.

5. I am therefore to propose that the exception should run," wills admitted to probate in British India or in the Civil & Military Station, Bangalore, or under the Indian Succession Act X of 1865 within Mysore State, may be proved by the probate".

I have the honor to be,

Sir,

Your most obedient servant,

Registrar.

G. R. S. 26]

Legs File No. 16-12
Serial No. 9

Diary No. of letter replied to .....

No. 4726/En: 2

General and Revenue Secretariat
( )
, *the* 191

Date of issue 18 February 1917

Signed by Dewan

To

My dear sir

I enclose herewith copy of a Bill further to amend the Indian Evidence Act, 1872, the Statement of Objects and reasons explains clearly the scope of the measure

The Bill will be placed before the Legislative Council in due course

Yours sincerely

Dewan 4/2

SUBJECT.

18.2.17 Dewan

To

The Hon'ble W. V. Cobb Esqr
M. A., I. C. S., C. S. I., C. I. E.

Dlc 24/2/17

Please type
4 copies 1/4 margin
+ CB
1/2/17

GEN. & REV. SECRETARIAT.
2
TYPING Sec.
1 FEB 1917

(28

A Bill further to amend the Indian Evidence Act, 1872, ~~as in force in Mysore~~.

Whereas it is expedient further to amend the Indian Evidence Act, 1872 as in force in Mysore; His Highness the Maharaja is pleased to enact as follows:-

Amendment of Exception 2 to section 91.

In exception 2 of section 91 after the words "British India" the words "or in the Civil and Military Stations Bangalore, or within ~~the~~ Mysore" shall be inserted.

CBB
5/1/17

SS
5/1/

Statement of (29) Objects and reasons

—

Under section 91 exception 2 of the Indian Evidence Act, I of 1872, as amended by Act ~~XVIII~~ of 1872 and introduced into Mysore by Govt of India Notn Foreign Dept, Judicial No 143 dated 18th July 1872 and the Chief Commissioners notn No 207 dated 28th Nov: 1872 respectively, wills can be proved in Mysore courts by the production of a probate granted in British India

Flag T

The language of this exception is not wide enough to allow probates granted by the Courts of the C & M Station and of the ~~Mysore~~ State to be received in proof of wills

(30

This omission which is due to oversight has been brought to the notice of Govt by the Chief Court and it is meant to supply it by the amendment proposed in this Bill

—

WLL
5/1

B
5/1

(31)

GEN. & REV. SECRETARIAT
III
JUDICIAL
15 MAR 1917

Sanctd 14-3-17 D.O. No—1932

16-12-3 Ques 14/3

J 2014
D. O. No. 4722

THE RESIDENCY,
BANGALORE.
13th March 1917

My dear Sir M. Visvesvaraya

I am desired to acknowledge the receipt of your D.O. letter No. 4726, dated the 18th February 1917, forwarding a copy of a Bill further to amend the Indian Evidence Act, 1872, as in force in Mysore, and in reply, to say that the Resident sees no prima facie objection to the Bill being laid before the Legislative Council.

Yours sincerely
Y. S. G. Lucker

Sir M. Visvesvaraya, K.C.I.E.,
Dewan of Mysore.

6/8

G. R. S. VI—G/32]

SUBJECT.....

.....

.....

Diary No. of letter replied to.....

GENERAL AND REVENUE SECRETARIAT

( )

, the *' 191* .

Date of issue 6th August 1917

Signed by B. Narasimha...

Section Legis

File No. 16-12

Serial No. 1

No. 901 130/Ec-1

To

The F. A. Resident in Mysore

Bangalore

Sir

I am directed to forward herewith a copy of the Bill further to amend the Indian Evidence Act, 1872, as in force in Mysore and to state that the Bill was introduced in the Legislative Council ~~on~~ to provide for Wills admitted to probate

over.

1747

in the C & M Station being proved by the probate and has been referred to the Select Committee ~~case~~ for consideration

2. In this connection I am to request you to kindly ascertain if the Hon'ble the Resident agrees to introduce a similar provision in the Evidence Act as in force in the C & M Station, Bangalore, for prosecuting ~~to obtain~~ wills admitted to probate by the Durbar Courts being proved by such probates in the courts in the C & M Station.

~~3. I am therefore to request~~

Reciprocity in such cases will be of great benefit to the public in both the State and the C & M Station

List of enclosures.

Received 8/V

Copied by

Examined by

I have &c

W.D.S.—G.P.B.—60,000—15-11-16

For Secretary to Govt

S.X

GEN. & REV. SEC. III 20 AUG 1917

No. 6415.

9512.

From

Major E. H. S. JAMES,
FIRST ASSISTANT to the RESIDENT in MYSORE.

Pol. 319/31.8.17

GEN. & REV. SECRETARIAT III JUDICIAL 31 AUG 1917

To

The Secretary to the Government of
His Highness the Maharaja of Mysore,
General Department.

Dated Bangalore, 30th August 1917

Sir,

With reference to your letter No.130 Pol., dated the 6th August 1917, regarding the Bill further to amend the Indian Evidence Act, 1872, as in force in Mysore, I am directed to say that the Resident is of opinion that a provision may well introduced in the Evidence Act as in force in the Civil and Military Station of Bangalore so as to permit of the wills admitted to probate in Mysore Courts being proved by such probates in Station Courts.

2. On this point the Government of India will have to be addressed and as another reference will also have to be made to Government in connection with the Durbar's Bill, the Resident thinks that the two references might well be made at the same time. A further communication from the Durbar will accordingly be awaited.

I have the honour to be,
Sir,
Your most obedient servant,

First Assistant Resident.

R. O. 2.—R. P. B.—7-1917.—1,000.

av

G. R. S. VI—G/32]

SUBJECT..... Requisition sanction of the G. of I. for passing the Bill further to amend the Indian Evidence Act, 1872.

Diary No. of letter replied to.....

Section Legis
File No. 16-12
Serial No. 6

GENERAL AND REVENUE SECRETARIAT,
( )
, *the* 191 .

No. Pd. 56 & 16.7.15

Date of issue..... 16.7.1915

Signed by..... Mr. C.S. Balasundaram

To

The F. A. Resident in Mysore, Bangalore

Sir

I am directed to forward herewith two copies of the Bill further to amend the Indian Evidence Act, 1872, as in force in Mysore together with two copies of the Report of the Select Committee on the Bill and to request you to be so good as to

over.

16/7

obtain the assent of the
Govt of India to the Bill
In this connection I
also
am glo invite your attention
to your letter No 6715
dated 30th August 1915
in the matter of suitably
amending the Indian
Evidence Act as in force
in the C & M Station Bangalore
so as to permit of the wills
~~to give such validity~~ as to permit of the wills
validly admitted to probate
in the Mysore Courts ~~being~~ duly being
proved by such probates
in the C & M Station courts and
to request ~~you to be so~~ the favour of necessary steps being
~~good as to do~~ taken
~~the necessary steps taken~~
~~to in this matter~~

List of enclosure
taken in the matter

Well
13/7/16

I have &c

13/7/16

Copied by

Examined by

Enclosure
four only
13/7

NOTIFICATION.

No. 416—*L. C.. dated* 21*st March* 1917.

Under Rule 31 of the Rules for the conduct of business of the Mysore Legislative Council, the following Bill further to amend the Indian Evidence Act, 1872, is published for general information together with a statement of objects and reasons.

By Order,
G. SREENIVASA IYER,
Secretary, Mysore Legislative Council

A Bill further to amend the Indian Evidence Act, 1872.

Whereas it is expedient further to amend the Indian Evidence Act, 1872, as in force in Mysore; His Highness the Maharaja is pleased to enact as follows:—

Amendment of Exception 2 to Section 91.

In exception 2 to Section 91 after the words "British India" the words "or in the Civil and Military Station, Bangalore, or within Mysore" shall be inserted.

Statement of objects and reasons

Under Section 91, exception 2 of the Indian Evidence Act, I of 1872, as amended by Act XVIII of 1872 and introduced into Mysore by Government of India Notification, Foreign Department, Judicial No. 143, dated 18th July 1872 and the Chief Commissioner's Notification No. 207, dated 28th November 1872, respectively, wills can be proved in Mysore Courts by the production of a probate granted in British India.

The language of this exception is not wide enough to allow probates granted by the Courts of the Civil and Military Station, Bangalore, and of the State to be received in proof of wills. This omission which is due to oversight has been brought to the notice of Government by the Chief Court and it is meant to supply it by the amendment proposed in this Bill.

NOTIFICATION.

No. 272—L. C., dated 20th November 1917.

Under Rule 40 of the Rules for the conduct of business of the Mysore Legislative Council, the accompanying Report of the Select Committee on the Bill further to amend the Indian Evidence Act, 1872, is published for general information.

By Order,
G. SREENIVASA IYER,
Secretary, Mysore Legislative Council.

Report of the Select Committee on the Bill further to amend the Indian Evidence Act, 1872.

We, the members of the Select Committee appointed to consider the Bill further to amend the Indian Evidence Act, 1872, have the honour to report that the Bill was carefully considered by us and requires no alteration.

W e terefore recommend that the Bill be passed.

M. KANTARAJ URS.
K. R. SRINIVASA IYENGAR.
C. S. DORASWAMI IYER.
M. CHENGIAH CHETTY.
B. NARASINGA RAO.
B. K. GARUDACHAR.

Note.—Mr. B. Venkatasamanna, who was also a member of the Select Committee, was absent from the meeting.

(39)

R. O. 2.—R. P. B.—9-1918.—500.

No. 6196

FROM

MAJOR E. H. S. JAMES,
FIRST ASSISTANT TO THE RESIDENT IN MYSORE.

To

The Chief Secretary to the Government of
His Highness the Maharaja of Mysore.

Dated Bangalore, 5th September 1918.

SIR,

With reference to your letter No. 54, dated the 16th July 1918, regarding an amendment to the Indian Evidence Act 1872, as in force in Mysore, I am directed to state that the Governor General in Council is pleased to accord his consent to the draft bill, on the understanding that he retains over it, the power and authority which vest in him by virtue of Article 18 of the Treaty dated the 26th November 1913.

2. Regarding paragraph 2 of your letter under - - reference, I am directed to forward for information, a copy of Notification No. 2741 I.B., dated the 26th August 1918, of the Government of India in the Foreign & Political Depar ment.

I have the honour to be,
Sir,
Your most obedient servant,

First Assistant Resident.

BJ

No. 2741 I.B.

GOVERNMENT OF INDIA.

Foreign and Political Department.

Simla, the 26th August 1918.

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N O T I F I C A T I O N.

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In exercise of the powers conferred by the Indian (Foreign Jurisdiction) Order in Council, 1902, and of all other powers enabling him in that behalf, the Governor General in Council is pleased to - - direct that the following amendment shall be made in the schedule to the Notification of the Government of India in the Foreign and Political Department No. 318-D., dated the 16th January 1917, applying certain enactments to the Civil and Military Station of Bangalore:-

In the entry in the second column against item 19, The Indian Evidence Act, 1872, (I of 1872) the following shall be added as paragraph 2 namely:-

"2- In exception 2 to Section 91 the words 'British India' shall be read as referring to British India, the territories of Mysore, including the Civil and Military Station of Bangalore, and areas outside British India under the administration of the Governor General in Council."

Sd. J. B. Wood,

Secretary to the Government of India.

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"C O P Y"

R E G I S T R A R.

Rec'd at 12-30 P.M. on 28/10/18

G. R. S. VI.—s-III/14]

DRAFT.

SUBJECT.....

.....

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Section. Legis
File No. 16-12
Serial No. 8

Diary No. of letter replied to.....

GENERAL AND REVENUE SECRETARIAT,

( )

the.....*191*

Date of issue.....28-10-18.....

Signed by.....for G. S. Iyer.....

Proceedings of the Government of H. H. the Maharaja of Mysore.

Order No. G 7731 Legis

Ordered that the accompanying Regulation Bill further to amend the Indian Evidence Act, 1872, which received the assent of His Highness the Maharaja, on the 8th day of October 1918, be published as Regulation No. X of 1918, in the *Mysore Gazette* for general information.

28/10
Secretary to Government.

May this be—

(i) Printed?

(ii) Treated as a standing order?

(iii) Published in the "Gazette" English part?

(iv) Translated?

(v) Placed at the disposal of the Press?

(vi) Published in the "Gazette" Kannada part?

To

The Compiler, *Mysore Gazette*, for publication in Part III of the Gazette, in English and Kannada and for supply of 200 spare copies in English, and 100 spare copies in Kannada to this office, and 100 spare copies in English and 50 spare copies in Kannada to the Curator, Government Central Book Depot, Bangalore. Proofs should be sent to this office for approval before publication. Attention is invited to G. O. No. G. 2200/Legis 5-2 dated 29th July 1918 re the form in which the matter has to be set in Type.

28/10